

**EXHIBIT H**

AFFIDAVIT

I, Roseanna Perry, hereby swear that the following is true and correct:

1. Within a day or two after learning of DNA tests that led to the release of Kenny Waters, I spoke with his lawyers Barry Scheck and Betty Anne Waters, who is also Kenny's sister. Mr. Scheck and I spoke by phone and during the course of the conversation he told me that I should tell the truth, no matter what it is, and it would be wise to seek the counsel of a lawyer because I would be questioned about my prior testimony in Kenny's case. I told him that a lawyer in Providence, David Levy, was someone I had known for a long time and I trusted him. I am signing this affidavit in the presence of Mr. Levy after consulting with him. This affidavit is not the product of my being scared, threatened, or bullied by anyone.

2. I was dragged into this whole case because the police knew Kenny and I were going out after he moved back to his family's home in Providence. During that time my life was one big party. I mean I was partying and drinking all the time. When Kenny and I went out for about six months we spent most of our time doing serious drinking of all kinds of booze; we even used to "funnel" drink. We were drunk a lot, both Kenny and me.

3. Just before Kenny's trial the police and District Attorney's office began looking for me. They were going around the neighborhood asking people about me; they even checked the bars I was going to.

4. One day the Providence police came to my house and made me go to the Providence police headquarters. There were two Ayer police officers with them. One of these officers was Nancy Taylor, I don't recall the male police officer's name.

5. I was scared when they came to my house because I didn't know what they wanted. I got even more scared when they told me I had to go with them to the police station.

6. After I got to the station they brought me into this room and Nancy Taylor began to question me about Kenny. She and this male officer began telling me that he hung his former girlfriend out a window one time and that while in jail he had slashed the throat of another prisoner, killing him. Then they threw a bunch of autopsy pictures on the table in front of me. The pictures were of this dead woman who had been murdered in Ayer. The pictures were awful. They told me to look at them and asked me if I wanted to end up like this woman. Nancy Taylor told me that Kenny had done this and she asked me what I knew about it. I told her repeatedly that I knew nothing about this woman or Kenny's connection to her. I didn't think Kenny did that or had any part of it.

7. I knew that Kenny had been living with his grandparents in Ayer before I met him and I knew about Brenda but not anything else.

8. The police kept questioning me. They began by asking me why I was covering for Kenny and then told me that if I did not give them information I was going to be in trouble. Nancy Taylor told me that I was going to be charged as an accessory to the murder if I didn't

tell them what I knew. I was very scared at this time and their questioning did not let up.

9. They asked me if Kenny had told me about the murder and I told them no. Then they asked me if I was part of the murder.

10. I had been at the police station for over three hours at this point, and Nancy Taylor was not letting up, she just wouldn't accept what I was telling them.

11. They told me that when Kenny was fifteen years old he had broken into Kay's (the dead woman's) house and that he knew her and knew what types of property she owned. She told me Kenny had stolen a ring the night of the murder and that he had sold it afterwards and they had the ring and proof that he had killed the woman.

12. Nancy was relentless, she repeatedly told me that I was going to be arrested and charged as an accessory.

13. After a long time of further questioning I told them that I remembered one night Kenny and I were drinking in a van when the subject of Kenny being questioned in Ayer about the murder came up but I really didn't remember what he said because we were both plastered, really drunk. I believe we finished a whole bottle of Southern Comfort. I have never been sure what Kenny said that night because I was so drunk. I told Nancy Taylor repeatedly I wasn't sure what he said. I certainly never had a clear memory of him confessing that he committed this murder. But Nancy Taylor kept pushing me to remember what he might have said about confessing to the murder. She was very overbearing and forceful. I really thought I was going to be arrested and charged. Nancy Taylor then told me I couldn't be unsure about Kenny confessing, that I had to be sure. I was so shocked at being asked if I had anything to do with the murder, I was so scared of being arrested, that I told her I thought I was sure.

14. After I told them about what they wanted to hear about what Kenny might have said that night, they began to ease up a little.

15. After that night in the precinct, Nancy Taylor never left me alone. She was always calling me and coming by the house, and I was still scared of them. She told me that Kenny was going to get me and that I was in danger of being killed. She had me so scared that I used to hide in the closet in my house.

16. I was still afraid the police might charge me with something connected to the murder.

17. Then one day Nancy Taylor and another police officer showed up at my house. She was all upset and told me that people were coming to kill me and that I had to go with them for my own safety. By now she already had me so terrified that I believed her and had ordered me to send my kids with my mother (who is now deceased) and told my mother that she had to go somewhere to hide. My mother and my kids went to my mother's sisters' (also deceased) house to stay.

18. Then they took me in a marked cruiser. They drove at high rates of speed, zig zagging in and out of traffic. Nancy was saying things like "are they still following us?" And "did we loose them?" I was terrified to be in a speeding car, and they knew it. Nancy told me that people were following us, trying to kill me. I didn't know what to think. Nancy was so overbearing and so demanding that I just went along with them. I mean they were police and I thought that it was true that someone was trying to kill me. Nancy Taylor told me that Kenny's family were the ones who were going to get me.

19. After some time of driving like this, Nancy spoke to the other officer; and said I think we lost them. They brought me to the Ayer police station and put me in a cell for my own protection. Nancy told me I had to do this and that I would stay there until the trial so that Kenny would not have me killed.

20. I stayed at the police station for about a week and then they moved me to a Holiday Inn located in Ayers. I stayed there for another week while they prepared me for the trial. Nancy Taylor continued to tell me all kinds of bad things about Kenny, and told me that I better go through with testifying or else I would be in trouble. One of the things that they told me to do was not to wear my partial plate. You see, once when we were all drinking together a fight broke out among the group. Kenny went to hit this one person and by mistake he hit me in the mouth and knocked out some of my front teeth. They told me not to wear my plate so that the jury could see what Kenny had done to me.

21. The night before the trial a whole group of police barged into my room and told me that people were coming to kill me. They said that these people had cut the telephone lines to the Hotel. They lined up in the hall and outside the hotel.

22. I was terrified, then after a while they left. They did not take me back to the police station. They did not move me to another hotel. That night Nancy again told me how dangerous Kenny was.

23. I have to say that Nancy Taylor was relentless in keeping me terrified, she never let up. Throughout this whole time she made me scared to death that I would be killed and scared that I would end up being arrested for murder.

24. After the trial ended, Nancy and her husband took me out for a lobster dinner at a fancy restaurant. That whole night, Nancy's husband argued with Nancy about Kenny being innocent. Her husband was police officer also. I think that he was an officer in Ayer also. He was angry at Nancy about Kenny's conviction.

25. At one point during that period of the trial while I was at the Holiday Inn the Police Chief showed up in my room. He told me to get down on my knees and beg for my soul to be saved. I did as he ordered me to. He told me that to beg for my soul to be saved, and I did that too. After he left I left that hotel. I didn't say anything to anyone, I just left. I had had it with being pushed around by the police.

26. After the trial was over, I contacted the Waters family and an investigator and lawyer they hired. Herb DeSimone, to make it clear that what I said at trial was not true, that I never was sure that Kenny confessed to me while we were drinking in the van because we were so drunk I never had a clear recollection of our conversation about the murder, much less a clear memory that he confessed to me.

27. After I gave that statement, I again became frightened by the reaction of people in the neighborhood, and was led to believe that the Waters family was going to hurt me. At a court hearing I said my statement to DeSimone wasn't true and I was sure that Kenny confessed to me in the van even though we were both plastered. That wasn't true, I have never been able to remember what was said about the murder, I never had a certain memory of Kenny confessing.

28. Now, with my own lawyer, and without anyone scaring me into anything, I want to set the record straight with this affidavit.

Sworn to me on \_\_\_\_ day of April, 2001.

TOTAL P.05

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